

Calendar No. 67

110TH CONGRESS
1ST SESSION**S. 385****[Report No. 110–30]**

To improve the interoperability of emergency communications equipment.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2007

Mr. INOUE (for himself, Mr. STEVENS, Mr. KERRY, Mr. SMITH, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

MARCH 5, 2007

Reported by Mr. INOUE, with amendments and an amendment to the title

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To improve the interoperability of emergency communications equipment.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Interoperable Emer-
5 gency Communications Act”.

1 **SEC. 2. INTEROPERABLE EMERGENCY COMMUNICATIONS.**

2 (a) IN GENERAL.—Section 3006 of Public Law 109–
3 171 (47 U.S.C. 309 note) is amended—

4 (1) by striking paragraphs (1) and (2) of sub-
5 section (a) and inserting the following:

6 “(1) may take such administrative action as is
7 necessary to establish and implement a grant pro-
8 gram to assist public safety agencies—

9 “(A) in conducting statewide or regional
10 planning and coordination to improve the inter-
11 operability of emergency communications;

12 “(B) in supporting the design and engi-
13 neering of interoperable emergency communica-
14 tions systems;

15 “(C) in supporting the acquisition or de-
16 ployment of interoperable communications
17 ~~equipment or systems~~ *equipment, software, or*
18 *systems* that improve or advance the interoper-
19 ability with public safety communications sys-
20 tems;

21 “(D) in obtaining technical assistance and
22 conducting training exercises related to the use
23 of interoperable emergency communications
24 equipment and systems; and

25 “(E) in establishing and implementing a
26 strategic technology reserve to pre-position or

1 secure interoperable communications in advance
 2 for immediate deployment in an emergency or
 3 major disaster (as defined in section 102(2) of
 4 Public Law 93–288 (42 U.S.C. 5122)); and

5 “(2) shall make payments of not to exceed
 6 \$1,000,000,000, in the aggregate, through fiscal
 7 year 2010 from the Digital Television Transition
 8 and Public Safety Fund established under section
 9 309(j)(8)(E) of the Communications Act of 1934
 10 (47 U.S.C. 309(j)(8)(E)) to carry out the grant pro-
 11 gram established under paragraph (1), of which not
 12 more than \$100,000,000, in the aggregate, may be
 13 allocated for grants under paragraph (1)(E).”;

14 ~~(2) by redesignating subsections (b) and (c) as~~
 15 ~~subsections (k) and (l), respectively, and inserting~~
 16 ~~after subsection (a) the following:~~

17 *(2) by redesignating subsections (b), (c), and (d)*
 18 *as subsections (l), (m), and (n), respectively, and in-*
 19 *serting after subsection (a) the following:*

20 “(b) EXPEDITED IMPLEMENTATION.—Pursuant to
 21 section 4 of the Call Home Act of 2006, no less than
 22 \$1,000,000,000 shall be awarded for grants under sub-
 23 section (a) no later than September 30, 2007, subject to
 24 the receipt of qualified applications as determined by the
 25 Assistant Secretary.

1 “(c) ALLOCATION OF FUNDS.—In awarding grants
 2 under subparagraphs (A) through (D) of subsection
 3 (a)(1), the Assistant Secretary shall ensure that grant
 4 awards—

5 “(1) result in distributions to public safety enti-
 6 ties among the several States that are consistent
 7 with section 1014(c)(3) of the USA PATRIOT ACT
 8 (42 U.S.C. 3714(c)(3)); and

9 “(2) are prioritized based upon threat and risk
 10 factors that reflect an all-hazards approach to com-
 11 munications ~~preparedness~~. *preparedness and that*
 12 *takes into account the risks associated with, and the*
 13 *likelihood of the occurrence of, terrorist attacks or*
 14 *natural catastrophes (including, but not limited to,*
 15 *hurricanes, tornados, storms, high water, winddriven*
 16 *water, tidal waves, tsunami, earthquakes, volcanic*
 17 *eruptions, landslides, mudslides, snow and ice storms,*
 18 *forest fires, or droughts) in a State.*

19 “(d) ELIGIBILITY.—To be eligible for assistance
 20 under the grant program established under subsection (a),
 21 an applicant shall submit an application, at such time, in
 22 such form, and containing such information as the Assist-
 23 ant Secretary may require, including—

24 “(1) a detailed explanation of how assistance
 25 received under the program would be used to im-

1 prove regional, State, or local communications inter-
 2 operability and ensure interoperability with other ap-
 3 propriate public safety agencies in an emergency or
 4 a major disaster; and

5 “(2) assurance that the equipment and system
 6 would—

7 “(A) be compatible with the communica-
 8 tions architecture developed under section
 9 7303(a)(1)(E) of the Intelligence Reform and
 10 Terrorism Prevention Act of 2004 (6 U.S.C.
 11 194(a)(1)(E));

12 “(B) meet any voluntary consensus stand-
 13 ards developed under section 7303(a)(1)(D) of
 14 that Act ~~(6 U.S.C. 194(a)(1)(D))~~; *(6 U.S.C.*
 15 *194(a)(1)(D)) to the extent that such standards*
 16 *exist for a given category of equipment; and*

17 “(C) be consistent with the common grant
 18 guidance established under section
 19 7303(a)(1)(H) of that Act (6 U.S.C.
 20 194(a)(1)(H)).

21 “(e) CRITERIA FOR CERTAIN GRANTS.—In awarding
 22 grants under subparagraphs (A) through (D) of sub-
 23 section (a)(1), the Assistant Secretary shall ensure that
 24 all grants funded are consistent with Federal grant guid-

1 ance established by the SAFECOM Program within the
 2 Department of Homeland Security.

3 “(f) CRITERIA FOR STRATEGIC TECHNOLOGY RE-
 4 SERVE GRANTS.—

5 “(1) IN GENERAL.—In awarding grants under
 6 subsection (a)(1)(E), the Assistant Secretary shall
 7 consider the continuing technological evolution of
 8 communications technologies and devices, with its
 9 implicit risk of obsolescence, and shall ensure, to the
 10 maximum extent feasible, that a substantial part of
 11 the reserve involves prenegotiated contracts and
 12 other arrangements for rapid deployment of equip-
 13 ment, supplies, and systems (*and communications*
 14 *service related to such equipment, supplies, and sys-*
 15 *tems), rather than the warehousing or storage of*
 16 *equipment and supplies currently available at the*
 17 *time the reserve is established.*

18 “(2) REQUIREMENTS AND CHARACTERISTICS.—

19 A reserve established under paragraph (1) shall—

20 “(A) be capable of re-establishing commu-
 21 nications when existing infrastructure is dam-
 22 aged or destroyed in an emergency or a major
 23 disaster;

24 “(B) include appropriate current, widely-
 25 used equipment, such as Land Mobile Radio

1 Systems, cellular telephones and ~~satellite equip-~~
 2 ~~ment~~, *satellite-enabled equipment (and related*
 3 *communications service)*, Cells-On-Wheels, Cells-
 4 On-Light-Trucks, or other self-contained mobile
 5 cell sites that can be towed, backup batteries,
 6 generators, fuel, and computers;

7 “(C) include equipment on hand for the
 8 Governor of each State, key emergency response
 9 officials, and appropriate State or local per-
 10 sonnel;

11 “(D) include contracts (including
 12 prenegotiated contracts) for rapid delivery of
 13 the most current technology available from
 14 commercial sources; and

15 “(E) include arrangements for training to
 16 ensure that personnel are familiar with the op-
 17 eration of the equipment and devices to be de-
 18 livered pursuant to such contracts.

19 “(3) ADDITIONAL CHARACTERISTICS.—Portions
 20 of the reserve may be virtual and may include items
 21 donated on an in-kind contribution basis.

22 “(4) CONSULTATION.—In developing the re-
 23 serve, the Assistant Secretary shall seek advice from
 24 the Secretary of Defense and the Secretary of
 25 Homeland Security, as well as national public safety

1 organizations, emergency managers, State, local, and
2 tribal governments, and commercial providers of
3 such systems and equipment.

4 “(5) ALLOCATION AND USE OF FUNDS.—The
5 Assistant Secretary shall allocate—

6 “(A) a portion of the reserve’s funds for
7 block grants to States to enable each State to
8 establish a strategic technology reserve within
9 its borders in a secure location to allow imme-
10 diate deployment; and

11 “(B) a portion of the reserve’s funds for
12 regional Federal strategic technology reserves
13 to facilitate any Federal response when nec-
14 essary, to be held in each of the Federal Emer-
15 gency Management Agency’s regional offices,
16 including Boston, Massachusetts (Region 1),
17 New York, New York (Region 2), Philadelphia,
18 Pennsylvania (Region 3), Atlanta, Georgia (Re-
19 gion 4), Chicago, Illinois (Region 5), Denton,
20 Texas (Region 6), Kansas City, Missouri (Re-
21 gion 7), Denver, Colorado (Region 8), Oakland,
22 California (Region 9), Bothell, Washington (Re-
23 gion 10), and each of the noncontiguous States
24 for immediate deployment.

1 “(g) *VOLUNTARY CONSENSUS STANDARDS*.—In car-
2 rying out this section, the Assistant Secretary, in coopera-
3 tion with the Secretary of Homeland Security shall iden-
4 tify and, if necessary, encourage the development and im-
5 plementation of, *voluntary* consensus standards for inter-
6 operable communications systems to the greatest extent
7 ~~practicable~~. *practicable, but shall not require any such*
8 *standard*.

9 “(h) *USE OF ECONOMY ACT*.—In implementing the
10 grant program established under subsection (a)(1), the
11 Assistant Secretary may seek assistance from other Fed-
12 eral agencies in accordance with section 1535 of title 31,
13 United States Code.

14 “(i) *INSPECTOR GENERAL REPORT*.—Beginning with
15 the first fiscal year beginning after the date of enactment
16 of the Interoperable Emergency Communications Act, the
17 Inspector General of the Department of Commerce shall
18 conduct an annual assessment of the management of the
19 grant program implemented under subsection (a)(1) and
20 transmit a report containing the findings of that assess-
21 ment and any recommendations related thereto to the Sen-
22 ate Committee on Commerce, Science, and Transportation
23 and the House of Representatives Committee on Energy
24 and Commerce.

1 “(j) DEADLINE FOR IMPLEMENTATION PROGRAM
 2 RULES.—Within 90 days after the date of enactment of
 3 the Interoperable Emergency Communications Act, the
 4 Assistant Secretary, in consultation with the Secretary of
 5 Homeland Security and the Federal Communications
 6 Commission, shall promulgate *final* program rules for the
 7 implementation of this ~~section.~~”; ~~and section.~~

8 “(k) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
 9 *tion shall be construed or interpreted to preclude the use*
 10 *of funds under this section by any public safety agency for*
 11 *interim or long-term Internet Protocol-based interoperable*
 12 *solutions, notwithstanding compliance with the Project 25*
 13 *standard.*”; *and*

14 (3) by striking paragraph (3) of subsection (4),
 15 (n), as redesignated.

16 (b) FCC REPORT ON EMERGENCY COMMUNICATIONS
 17 BACK-UP SYSTEM.—

18 (1) IN GENERAL.—Not later than 1 year after
 19 the date of enactment of this Act, the Federal Com-
 20 munications Commission, in coordination with *the*
 21 *Assistant Secretary of Commerce for Communications*
 22 *and Information* and the Secretary of Homeland Se-
 23 curity, shall evaluate the technical feasibility of cre-
 24 ating a back-up emergency communications system
 25 that complements existing communications resources

1 and takes into account next generation and ad-
2 vanced telecommunications technologies. The over-
3 riding objective for the evaluation shall be providing
4 a framework for the development of a resilient inter-
5 operable communications system for emergency re-
6 sponders in an emergency. The Commission shall
7 evaluate all reasonable options, including satellites,
8 wireless, and terrestrial-based communications sys-
9 tems and other alternative transport mechanisms
10 that can be used in tandem with existing tech-
11 nologies.

12 (2) FACTORS TO BE EVALUATED.—The evalua-
13 tion under paragraph (1) shall include—

14 (A) a survey of all Federal agencies that
15 use terrestrial or satellite technology for com-
16 munications security and an evaluation of the
17 feasibility of using existing systems for the pur-
18 pose of creating such an emergency back-up
19 public safety communications system;

20 (B) the feasibility of using private satellite,
21 wireless, or terrestrial networks for emergency
22 communications;

23 (C) the technical options, cost, and deploy-
24 ment methods of software, equipment, handsets
25 or desktop communications devices for public

safety entities in major urban areas, and nationwide; and

(D) the feasibility and cost of necessary changes to the network operations center of terrestrial-based or satellite systems to enable the centers to serve as emergency back-up communications systems.

(3) REPORT.—Upon the completion of the evaluation under subsection (a), the Commission shall submit a report to Congress that details the findings of the evaluation, including a full inventory of existing public and private resources most efficiently capable of providing emergency communications.

(c) JOINT ADVISORY COMMITTEE ON COMMUNICATIONS CAPABILITIES OF EMERGENCY MEDICAL CARE FACILITIES.—

(1) ESTABLISHMENT.—The Assistant Secretary of Commerce for Communications and Information and the Chairman of Federal Communications Commission, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human Services, shall establish a joint advisory committee to examine the communications capabilities and needs of emergency medical care facilities. The joint advisory committee shall be composed of indi-

viduals with expertise in communications technologies and emergency medical care, including representatives of Federal, State and local governments, industry and non-profit health organizations, and academia and educational institutions.

(2) *DUTIES.*—The joint advisory committee shall—

(A) assess specific communications capabilities and needs of emergency medical care facilities, including the including improvement of basic voice, data, and broadband capabilities;

(B) assess options to accommodate growth of basic and emerging communications services used by emergency medical care facilities;

(C) assess options to improve integration of communications systems used by emergency medical care facilities with existing or future emergency communications networks; and

(D) report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce, within 6 months after the date of enactment of this Act.

(d) *AUTHORIZATION OF EMERGENCY MEDICAL COMMUNICATIONS PILOT PROJECTS.*

1 (1) *IN GENERAL.*—*The Assistant Secretary of*
2 *Commerce for Communications and Information may*
3 *establish not more than 10 geographically dispersed*
4 *project grants to emergency medical care facilities to*
5 *improve the capabilities of emergency communica-*
6 *tions systems in emergency medical care facilities.*

7 (2) *MAXIMUM AMOUNT.*—*The Assistant Secretary*
8 *may not provide more than \$2,000,000 in Federal as-*
9 *sistance under the pilot program to any applicant.*

10 (3) *COST SHARING.*—*The Assistant Secretary*
11 *may not provide more than 50 percent of the cost, in-*
12 *curring during the period of the grant, of any project*
13 *under the pilot program.*

14 (4) *MAXIMUM PERIOD OF GRANTS.*—*The Assist-*
15 *ant Secretary may not fund any applicant under the*
16 *pilot program for more than 3 years.*

17 (5) *DEPLOYMENT AND DISTRIBUTION.*—*The As-*
18 *stant Secretary shall seek to the maximum extent*
19 *practicable to ensure a broad geographic distribution*
20 *of project sites.*

21 (6) *TRANSFER OF INFORMATION AND KNOWL-*
22 *EDGE.*—*The Assistant Secretary shall establish mech-*
23 *anisms to ensure that the information and knowledge*
24 *gained by participants in the pilot program are*
25 *transferred among the pilot program participants*

1 *and to other interested parties, including other appli-*
 2 *cants that submitted applications.*

3 **SEC. 3. RULE OF CONSTRUCTION.**

4 (a) IN GENERAL.—Title VI of the Post-Katrina
 5 emergency Management Reform Act of 2006 (Public Law
 6 109–295) is amended by adding at the end thereof the
 7 following:

8 **“SEC. 699A. RULE OF CONSTRUCTION.**

9 “Nothing in this title, including the amendments
 10 made by this title, may be construed to reduce or other-
 11 wise limit the authority of the Department of Commerce
 12 or the Federal Communications Commission.”.

13 (b) EFFECTIVE DATE.—The amendment made by
 14 this section shall take effect as though enacted as part
 15 of the Department of Homeland Security Appropriations
 16 Act, 2007.

17 **SEC. 4. CROSS BORDER INTEROPERABILITY REPORTS.**

18 (a) IN GENERAL.—*Not later than 90 days after the*
 19 *date of enactment of this Act, the Federal Communications*
 20 *Commission, in conjunction with the Department of Home-*
 21 *land Security, the Office of Management of Budget, and the*
 22 *Department of State shall report to the Senate Committee*
 23 *on Commerce, Science, and Transportation and the House*
 24 *of Representatives Committee on Energy and Commerce*
 25 *on—*

1 (1) *the status of the mechanism established by*
 2 *the President under section 7303(c) of the Intelligence*
 3 *Reform and Terrorism Prevention Act of 2004 (6*
 4 *U.S.C. 194(c)) for coordinating cross border inter-*
 5 *operability issues between—*

6 *(A) the United States and Canada; and*

7 *(B) the United States and Mexico;*

8 (2) *the status of treaty negotiations with Canada*
 9 *and Mexico regarding the coordination of the re-band-*
 10 *ing of 800 megahertz radios, as required under the*
 11 *final rule of the Federal Communication Commission*
 12 *in the “Private Land Mobile Services; 800 MHz Pub-*
 13 *lic Safety Interface Proceeding” (WT Docket No. 02–*
 14 *55; ET Docket No. 00–258; ET Docket No. 95–18,*
 15 *RM–9498; RM–10024; FCC 04–168), including the*
 16 *status of any outstanding issues in the negotiations*
 17 *between—*

18 *(A) the United States and Canada; and*

19 *(B) the United States and Mexico;*

20 (3) *communications between the Commission*
 21 *and the Department of State over possible amend-*
 22 *ments to the bilateral legal agreements and protocols*
 23 *that govern the coordination process for license appli-*
 24 *cations seeking to use channels and frequencies above*
 25 *Line A;*

1 (4) *the annual rejection rate for the last 5 years*
 2 *by the United States of applications for new channels*
 3 *and frequencies by Canadian private and public enti-*
 4 *ties; and*

5 (5) *any additional procedures and mechanisms*
 6 *that can be taken by the Commission to decrease the*
 7 *rejection rate for applications by United States pri-*
 8 *vate and public entities seeking licenses to use chan-*
 9 *nels and frequencies above Line A.*

10 (b) *UPDATED REPORTS TO BE FILED ON THE STATUS*
 11 *OF TREATY OF NEGOTIATIONS.—The Federal Communica-*
 12 *tions Commission, in conjunction with the Department of*
 13 *Homeland Security, the Office of Management of Budget,*
 14 *and the Department of State shall continually provide up-*
 15 *dated reports to the Committee on Commerce, Science, and*
 16 *Transportation of the Senate and the Committee on Energy*
 17 *and Commerce of the House of Representatives on the status*
 18 *of treaty negotiations under subsection (a)(2) until the ap-*
 19 *propriate United States treaty has been revised with each*
 20 *of—*

21 (1) *Canada; and*

22 (2) *Mexico.*

23 **SEC. 5. EXTENSION OF SHORT QUORUM.**

24 *Notwithstanding section 4(d) of the Consumer Product*
 25 *Safety Act (15 U.S.C. 2053(d)), 2 members of the Consumer*

1 *Product Safety Commission, if they are not affiliated with*
2 *the same political party, shall constitute a quorum for the*
3 *6-month period beginning on the date of enactment of this*
4 *Act.*

Amend the title so as to read: “A Bill to improve the interoperability of emergency communications equipment and systems.”.

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110TH CONGRESS
1ST Session

S. 385

[Report No. 110-30]

A BILL

To improve the interoperability of emergency
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